

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRAVIS JUSTIN CUELLAR,

Plaintiff,

v.

MADERA COUNTY SHERIFF,

Defendant.

No. 1:24-cv-01331 GSA (PC)

ORDER VACATING AS PREMATURELY
ISSUED COURT'S GRANT OF PLAINTIFF'S
FIRST APPLICATION TO PROCEED IN
FORMA PAUPERIS

(See ECF No. 4)

ORDER DISREGARDING PLAINTIFF'S
FIRST APPLICATION TO PROCEED IN
FORMA PAUPERIS AS INCOMPLETE

(See ECF No. 2 at 2)

ORDER DIRECTING PLAINTIFF TO FILE
PRISON TRUST FUND ACCOUNT
STATEMENT

See 28 U.S.C. § 1915(a)(2)

PLAINTIFF'S PRISON TRUST FUND
ACCOUNT STATEMENT DUE IN THIRTY
DAYS

Plaintiff, a county jail inmate proceeding pro se, is a pretrial detainee. See ECF No. 1 at 3 (Plaintiff stating same). He has filed a civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 1. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Before this Court is Plaintiff's second application to proceed in forma pauperis.¹ ECF No. 6. For the reasons stated below, the Court will refrain from reviewing the application at this time. Instead, it will disregard Plaintiff's first-filed application to proceed in forma pauperis (see ECF No. 2) as incomplete and vacate as prematurely issued its order that granted Plaintiff in forma pauperis status (see ECF No. 4). In addition, Plaintiff will be ordered to file a six-month prison trust fund account statement with the Court, consistent with 28 U.S.C. § 1915(a)(2). He will be given thirty days to do so.

I. RELEVANT FACTS

On October 31, 2024, Plaintiff's complaint and his first application to proceed in forma pauperis were docketed. See ECF Nos. 1, 2. However, the certification section of the application, which Plaintiff, as a county jail inmate was required to have completed by jail officials, was not filled out. In addition, Plaintiff had not filed a six-month prison trust fund account statement with the Court, which is required by statute. 28 U.S.C. § 1915(a)(2). See ECF No. 4.

On November 13, 2024, Plaintiff randomly filed a second application to proceed in forma pauperis. ECF No. 6. The certification portion of the application appears to have been completed and signed by a county jail official. See id. at 2. However, like the first in forma pauperis application filed by Plaintiff, it too fails to be accompanied by a six-month trust fund account statement. See generally ECF No. 6.

II. DISCUSSION

A. Applicable Law

Federal law requires that incarcerated individuals who wish to proceed in forma pauperis in a civil rights action do two things: (1) file an application to proceed in forma pauperis, and (2) file a prison trust fund account statement that reflects the inmate's trust fund account activity over the past six months. See 28 U.S.C. § 1915(a)(1)-(2). It is only when both have been filed by a plaintiff that the Court should consider his application. See id.

¹ Plaintiff's first application to proceed in forma pauperis was docketed on October 31, 2024. See ECF No. 2.

1 B. Analysis

2 Given that the certification section of Plaintiff's first application to proceed in forma
3 pauperis was not completed, the Court will disregard it as incomplete and will vacate as
4 prematurely issued its November 4, 2024 order that granted the application. In addition, Plaintiff
5 will be ordered to file his six-month certified trust account statement with the Court. Once this
6 has been done the Court will consider the account statement along with Plaintiff's currently
7 pending second application to proceed in forma pauperis, which has a completed certification
8 section. See ECF No. 6.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The Court herein VACATES as prematurely issued, its November 4, 2024, order that
11 granted Plaintiff's first application to proceed in forma pauperis (see ECF Nos. 2, 4);

12 2. Plaintiff's first application to proceed in forma pauperis (ECF No. 2) is
13 DISREGARDED as incomplete. See 28 U.S.C. § 1915(a)(2), and

14 3. Within thirty days from the date of this order, Plaintiff shall file the six-month trust
15 fund account statement required by 28 U.S.C. § 1915(a)(2).

16 **Plaintiff is cautioned that failure to comply with this order within the time allotted**
17 **may result in a recommendation that this matter be dismissed.**

18
19
20 IT IS SO ORDERED.

21 Dated: November 18, 2024

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE